

AUG - 7 2007

JEANNE G. QUINATA
Clerk of Court

jinparksentcorr

LEONARDO M. RAPADAS
United States Attorney
KARON V. JOHNSON
Assistant U.S. Attorney
Suite 500, Sirena Plaza
108 Hernan Cortez Avenue
Hagatna, Guam 96910
TEL: (671) 472-7332
FAX: (671) 472-7334

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JIN WOO PARK,
Defendant.

CRIMINAL CASE NO. 06-00102

UNITED STATES NOTICE
CONCERNING SENTENCING

COMES NOW the United States and hereby advises this Honorable Court that it believes that the crime for which defendant is to be sentenced, Fraud in Connection with Identification Documents, in violation of 18 U.S.C. §1028(a)(7), is a class A misdemeanor, rather than a felony.

The operative facts of this case are that defendant, who had entered as a tourist and remained illegally in the United States, solicited Ina Lee to help him obtain a Guam driver's license. Lee was doing this for many people, using forged letters purportedly from the Internal Revenue Service assigning Taxpayer Identification Numbers (TIN). Lee filed an application for a Guam driver's license with a confederate in the Motor Vehicle Division, using TIN 952-797-906 as defendant's means of identification. The TIN is assigned to Aracely Guitierrez. A Guam driver's license was issued to defendant using this false authentication feature.

The penalty section of this statute, 1028(b), is rather convoluted. Section 1028(b)(2)

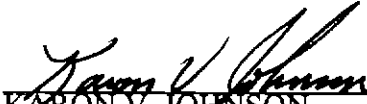
1 provides a five-year penalty for the "production, transfer, or use of a means of identification, an
2 identification document, authentication feature, or false identification document." This section
3 also provides a wide range of penalties which are not applicable here, but which are all directed
4 at the "production, transfer, or use." Section 1028(b)(6) is a catch-all provision: the penalty for
5 "any other case" is a one-year misdemeanor.

6 Although defendant, through Ina Lee, "used" the IRS TIN letter, defendant has been
7 charged under § 1028(a)(7), which concerns knowingly possessing an authentication feature.
8 Given that the charge is under this section, the government believes that the penalty imposed
9 must be pursuant to § 1028(b)(6), that is, a misdemeanor.

10 Respectfully submitted this 7th day of August 2007.

11 LEONARDO M. RAPADAS
12 United States Attorney
13 Districts of Guam and NMI

14 By:

15 
16 KARON V. JOHNSON
17 Assistant U.S. Attorney
18
19
20
21
22
23
24
25
26
27
28